

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 8553 of 2003

Between:

1. Kondeti Anki Reddy, S/o. K. Anki Reddy,
Aged about 58 years, Occu:Business,
R/o. D.No.24/441, Bhaghavathpalem,
Saraswathi Nagar, Dargamitta, Nellore,
Nellore District.

2. Kalicherla Narasimhulu, S/o. Narayana,
Aged about 50 years, R/o. D.No.24/443,
Bhaghavathpalem, Saraswathi Nagar,
Dargamitta, Nellore, Nellore District.

... PETITIONERS

AND

1. The State of Andhra Pradesh,
rep., by its Principal Secretary,
Municipal Administration and
Urban Development (H1) Department,

Secretariat Buildings, Hyderabad.

2. The District Collector, Nellore,
Nellore District.

3. The Municipal Commissioner,
Nellore Municipality, Nellore District.

4. Devireddy Srinivasulu Reddy,
S/o. Ramachandra Reddy,
Aged about 40 years, Occu: Business,
R/o. D.No.45-835, Simhapuri Centre,
Vedayapalam, Nellore-4, Nellore District.

5. Anapalli Vinod Reddy, S/o. Prabakar Reddy,
(Grand son of late Menakuru Gopalakrishna
Reddy), Aged about 26 years,
R/o.D.No.810-86, Ragagopalpuram,
Opp: Honda Show Room.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 1st respondent in allotting the site to an extent of 377.18 Sq. mts in Sy.No.543, approved layout plan, T.P.No.49/76 of Saraswathi Nagar, Bagavathpalem, Nellore Town vide G.O.Ms.No.429 M.A., dated 21-9-2002 to the respondents 4 and 5 and fixing the low market value by the 2nd respondent and also to declare the consequential proceedings of the 3rd respondent dated 3-4-2003 in R.O.C.No.7173/94-G1 as illegal, unjust, arbitrary, unfair, legally malafide and consequently directing the respondents 1 to 3 to consider the case of petitioners for the allotment site on payment of market value.

Counsel for the Petitioner: MR.S.V.MUNI REDDY

Counsel for the Respondent Nos.1 & 2: GP FOR MUNICIPAL ADMINISTRATION.

Counsel for the Respondent No.3: None appeared.

Counsel for the Respondent Nos.4 & 5: MR. P. SRIDHAR REDDY.

The Court made the following:

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ORAL ORDER:

The learned counsel for the petitioner submits that insofar as the first petitioner is concerned, he seeks permission of this Court to withdraw the writ petition. A memo has been filed to that effect. Permission is accorded.

2. Recording the said submission, the writ petition is dismissed insofar as the first petitioner is concerned.

3. Heard the learned Counsel for the second petitioner and the learned Counsel for

the respondents.

4. The grievance of the second petitioner is that the first respondent has no valid reason to dispose of the schedule property, which is in dispute, in favour of the fourth and fifth respondents.

5. Admittedly, the second petitioner is an encroacher of the disputed land. It appears that, originally, the fourth respondent and the grandfather of fifth respondent have purchased the property under a registered sale deed, dated 17-03-1979. A bit of land was earmarked for laying a road in the master plan. Over a period of time, the purpose of ear-marking that particular part of land for laying the road has become redundant. Therefore, the fourth and fifth respondents made an application to the Government seeking amendment to the master plan and the same had been considered by the Government. A draft notification (Memorandum), dated 22-12-1999, was published calling for objections from the general public for amending the Master Plan and for Re-allotment of the site in their favour in L.P.No.49/76. The second petitioner (since first petitioner has already withdrawn the writ petition) did not make any objection to the said notification and accordingly G.O.M.S.No.4429, dated 21-09-2002, had been issued restoring the said piece of land in favour of fourth and fifth respondents, however, subject to payment of market price. The said price fixed by the Government has also been deposited by the fourth and fifth respondents, consequent of which, they were put in possession of the same. It appears that some civil suits are also pending between the contesting parties.

6. Notwithstanding the above said facts, and without going into the merits of the case, particularly having regard to the fact that some civil suits are pending, this writ petition cannot be entertained and is liable to be dismissed.

7. Accordingly, this writ petition is dismissed. No costs.

D.S.R.VARMA, J

16TH JULY 2004

ES/DR

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Principal Secretary, State of Andhra Pradesh, Municipal Administration and Urban Development (H1) Department, Secretariat Buildings, Hyderabad.
2. The District Collector, Nellore, Nellore District.
3. The Municipal Commissioner, Nellore Municipality, Nellore District.
4. Two CCs to the Government Pleader for Municipal Administration, High Court Buildings, Hyderabad (OUT).
5. Two CD copies.

